

40. (New) The apparatus of claim 39 wherein the second position is a support position for supporting the goods while the elevator returns to its first position.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Marked-up Version Showing Changes.**"

### **REMARKS**

Claims 1-9 and 35-36 were rejected as being anticipated under 35 U.S.C. §102 by U.S. Patent 5,115,625 to Noel K. Barbulesco et al. ("Barbulesco"). Furthermore, claims 6-9 were rejected as obvious under 35 U.S.C. §103 by Barbulesco in view of U.S. Patent 4,550,549 to Nyles V. Reinfeld et al. ("Reinfeld"). Currently, claims 1-9 and 35-36 are pending in the present application.

The applicant would like to thank the Examiner for his time during the telephonic interview conducted on January 17, 2002.

#### **I. Claims 1-5 And 35-36 Are Not Anticipated As Amended.**

Claims 1-5 and 35-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by Barbulesco. Applicant respectfully traverses this rejection. In order to anticipate the present invention, Barbulesco must teach or disclose all of the elements of the claimed invention. Because each of the dependent claims depend from, and incorporate the limitations of, independent claim 1 or 35, only independent claims 1 and 35 are discussed below.

Barbulesco teaches a method and apparatus for packaging a product in a box. Barbulesco raises the product into the open bottom of the box utilizing an elevator 30 with a plate attached on the top. Then, with the elevator still in its upright position, a push flite 90 attached to a push

flite chain 91 activates and pushes the box, and the product contained therein, onto a curved plate 43 and a number of fixed supports 40a and 40b. The elevator of Barbulesco must remain in the upper position until the push flite 90 moves the box off of the elevator and onto the fixed supports 40a and 40b. The product and the box are supported by fixed supports 40a, 40b, 40c, support tongue 41, and support 43 after the product and the box are pushed by the push flite 90 off of the elevator. The elevator must remain in the up position until the box and the product are completely pushed off. None of the supports support the product and the box while the elevator returns to collect more objects.

In contrast, claim 1 requires an apparatus that includes a support mechanism that supports the at least one good “substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to the its first position.” Furthermore, claim 35 claims a method that requires “supporting the at least one good in a position substantially over the top of the elevator lift apparatus while the elevator lift apparatus returns to the first position.” The elevator lift apparatus lifts the goods into the box. The support mechanism supports the goods in a position substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to its first position. Because the support mechanism supports the goods substantially over the top of the elevator lift apparatus, and inside of the box, the elevator lift apparatus can immediately return to receive more goods. As opposed to Barbulesco, in the present method and apparatus the elevator lift apparatus and does not have to stay in the upper position until the box and goods are pushed off of the lift apparatus onto the various fixed support mechanisms. In Barbulesco’s apparatus and method, the elevator lift apparatus must remain in the up position while the product and the box are pushed. The present invention apparatus and method therefore results in a faster box loading speed.

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Thus, claims 1 and 35 of the present invention claim subject matter not disclosed, taught, or suggested by Barbulesco.

**II. Dependent claims 2-5 and 36 Are Allowable**

Because dependent claims 2-5 and 36 depend on independent claim 1 either directly or indirectly, the arguments presented above apply *a fortiori* to these claims. As such, each of the dependent claims are not anticipated or obvious in light of the above discussed references.

**III. The Claims Of The Present Invention Are Not Obvious Over Barbulesco In View of Reinfeld.**

Claims 6-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Barbulesco in view of Reinfeld. Applicant respectfully traverses this rejection. The arguments made above in response to the Examiner's anticipation rejection of Claims 1 and 35 based on Barbulesco are incorporated herein by reference. Because claim 1 is not obvious, claims 6-9 are not obvious.

As previously mentioned Barbulesco does not teach, disclose, or suggest the invention claimed in claim 1. Reinfeld discloses a packaging method and apparatus using a molded open ended container that is telescoped onto the articles to be packaged. Reinfeld does not remedy the deficiencies of Barbulesco.

Claims 6-9 depend directly or indirectly on independent claim 1 and therefore incorporate all of the limitations of independent claim 1. Because independent claim 1 is not anticipated or obvious in view of the prior art, and because the arguments presented above apply *a fortiori* to these claims, claims 6-9 are patentably distinct.

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**CONCLUSION**

In view of the amendments, it is urged respectfully that the objection of the claims be reconsidered and withdrawn, and that the claims be allowed. However, if the Examiner believes that any issues remain unresolved, he is invited to telephone the undersigned to expedite allowance.

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**MARKED-UP VERSION SHOWING CHANGES**

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**IN THE CLAIMS**

1. (Twice Amended) An apparatus for packaging goods in a box, comprising:
- (a) a box erecting apparatus for erecting a box to receive at least one good;
  - (b) [a support mechanism operably positioned relative to the box erecting apparatus;
- and
- (c)] an elevator lift apparatus operatively connected below the box erecting apparatus, the elevator apparatus having a first position and a second position wherein the elevator lifts the at least one good from the first position to the second position; and [, the at least one good supported by the support mechanism, in a position that is substantially the same position in which it was placed by the elevator, while the elevator returns to the first position.]
- (c) a support mechanism operably positioned relative to the box erecting apparatus wherein the support mechanism receives the at least one good after the elevator lifts the at least one good to the second position, the support mechanism supporting the at least one good substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to the its first position.

35. (Twice Amended) A method for packaging goods in an open-bottomed container, wherein the open-bottomed container is an open-bottomed cardboard box with four upper flaps, comprising:

- (a) unfolding the open-bottomed cardboard box;
- (b) holding the unfolded open-bottomed cardboard box above an elevator lift apparatus;

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(c) activating the elevator lift apparatus to raise an at least one good into the open-bottomed cardboard box, the elevator lift apparatus moving from a first position to a second position;

(d) [after retracting the elevator lift apparatus, holding the at least one good supported inside the box by a support mechanism in a position that is substantially the same position where the at least one good was placed by the elevator lift apparatus;] retracting the elevator lift apparatus;

(e) supporting the at least one good in a position substantially over the top of the elevator lift apparatus while the elevator lift apparatus returns to the first position; and

[(e)](f) folding the four upper flaps of the open-bottomed cardboard box.